

REMARKS

Applicants acknowledge receipt of an Office Action dated June 5, 2002. In this response, Applicants have amended claims 1, 6, 10 and 11 and added claims 17-23. Support for these amendments may be found in the Specification *inter alia* at page 1, lines 4-6. Claims 7 and 8 have been cancelled without prejudice or disclaimer. Newly added claims 17-20 are directed to the same subject matter as claims 7 and 8 and recite active method steps. Following entry of these amendments, claims 1-6, 9-11 and 13-21 are pending in the application.

Reconsideration of the present application is respectfully requested in view of the foregoing amendments and the remarks which follow.

Rejections Under 35 U.S.C. §112, 2nd Paragraph

On page 2 of the Office Action, the PTO has rejected claims 7-8, 10 and 11 as allegedly being indefinite.

With regard to claims 7-8 and 10, Applicants have cancelled claims 7 and 8 and have added claims 17, 18, 20 and 21 which Applicants have drafted to recite active method steps. Claim 10 has been amended to recite active method steps.

With regard to claim 11, Applicants have amended claim 11 to delete the phrase "preferably hemp fibers" and have added new claim 21 directed to a preferred embodiment in which comprises hemp fibers.

In view of the foregoing, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections under §112.

Claim Rejection Under §103 - Cox

On page 3 of the Office Action, the PTO has rejected claims 1-9 and 14-16 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 6,156,562 to Cox (hereafter "Cox"). Applicants respectfully traverse this rejection for the reasons set forth below.

Cox relates to a method for treating cotton toweling and related fabrics with cellulase so as to impart permanent softening to such fabrics (col. 1, lines 57 - 59). The toweling is constructed by forming one or more loops which extend above or below a plane of base fibers (col. 3, lines 1-3). In this response, Applicants have amended independent claims 1 and 6 to recite "tubular foodstuff casings based on cellulose hydrate." Cox does not contemplate treating any film materials; such as tubular foodstuff casings, with the cellulase enzymes.

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 180 USPQ 580 (CCPA 1974). See MPEP §2143.03. Here, since Cox fails to teach or fairly suggest the "tubular foodstuff casings based on cellulose hydrate" recited in independent claims 1 and 6, Cox cannot properly render these claims obvious within the meaning of §103, and the rejection must be withdrawn.

If an independent claim is nonobvious under §103, then any claim depending therefrom is nonobvious. *In re Fine*, 5 USPQ2d 1596 (Fed. Cir. 1988). See MPEP 2143.03. Thus, Applicants submit that claims 2-6, 9 and 14-16 which depend directly or indirectly from claims 1 or 6 are also nonobvious.

Applicants note that claims 7 and 8 have been cancelled without prejudice or disclaimer and that the subject matter of these claims has been presented in new claims 17-20. Also, Applicants have added new claims 22-23. Claims 17-20 and 22-23 are believed to be allowable for the same reasons as claim 1 from which they depend.

In view of the foregoing, Applicants respectfully request reconsideration and withdrawal of this rejection under §103.

Claim Rejection Under §103 – Cox and Hammer

On page 4 of the Office Action, the PTO has rejected claims 10-11 and 13 under 35 U.S.C. §103(a) as being unpatentable over Cox in view of U.S. Patent 5,262,211 to Hammer *et al.* (hereafter "Hammer").

As discussed above, Cox relates to a method for treating cotton toweling and related fabrics with cellulase so as to impart permanent softening to such fabrics (col.

1, lines 57 - 59). The toweling is constructed by forming one or more loops which extend above or below a plane of base fibers (col. 3, lines 1-3). Cox, however, fails to teach or fairly suggest the "tubular foodstuff casings based on cellulose hydrate" recited in independent claims 1 and 6.

While Hammer relates to foodstuff casings, according to Hammer, "[t]he difficulty with foodstuff casings made of cellulose hydrate is that during storage, before being filled with the foodstuff, they are infested by undesired mold and other microorganisms, and thus become useless" (col. 1, lines 11 - 14). Hammer solves this problem by applying an external coating which contains a di-n-decyl-dimethyl ammonium compound (col. 2, lines 50 - 55). Hence, Hammer teaches away from a cellulase treatment as disclosed by Cox, and a person skilled in the art would not have combined the references in the way indicated in the Official Action.

Applicants further submit that there is no teaching or fair suggestion, in either Cox or Hammer or set forth in the Office Action, that the foodstuff casings of Hammer could be treated successfully by Cox's process for softening cotton toweling and fabrics. There is no reasonable expectation that a process suitable for treating towels and fabrics will be suitable for treating food products. Simply stated, these references are non-analogous, and, there is no reasonable expectation of success.

Specifically, neither Cox nor Hammer, taken alone or in fair combination, address the problem addressed by the present invention, e.g. the need for an external preparation to increase the roughness of hydrated cellulose shaped articles for foodstuff casings. See *inter alia* the last paragraph on page 2 of the present Application. The present invention eliminates the need for external preparations to increase the surface roughness of these foodstuff casings.

Thus, considering the present invention as a whole, it is clear that Cox and Hammer are non-analogous references because they treat different substrates and because they do not address the problem or the solution of the present invention. Accordingly, reliance on the combination of these references is improper and must be withdrawn.

Thus, one of ordinary skill in the art would not have been motivated to combine the references, and any rejection under §103 based on these references must be withdrawn.

Claims 10-11 and 13 as well as new claim 21 are believed allowable for at least the foregoing reasons.

In view of the foregoing, Applicants respectfully request reconsideration and withdrawal of this rejection under §103.


CONCLUSION

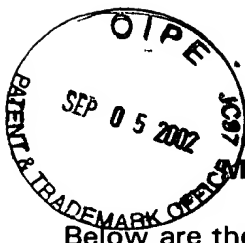
In view of the foregoing amendments and remarks, Applicants respectfully submit that all of the pending claims are now in condition for allowance. An early notice to this effect is earnestly solicited. If there are any questions regarding the application, the Examiner is invited to contact the undersigned at the number below.

Respectfully submitted,

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MARKED UP VERSION SHOWING CHANGES MADE

Below are the marked up amended claim(s):

1. (Amended) A process for the treatment of [flat or tubular hydrated cellulose shaped articles] tubular foodstuff casings based on cellulose hydrate, which comprises allowing at least one cellulase to act on the surface of the tubular foodstuff casings based on cellulose hydrate and then inactivating this cellulase permanently.

6. (Amended) A [flat or tubular shaped article based on hydrated cellulose] tubular foodstuff casing based on cellulose hydrate, the surface of which is modified by the time-limited action of at least one cellulase.

10. (Amended) The tubular shaped article as claimed in claim 9, produced according to a process which comprises:

[which has subsequently been subjected] subjecting the article of claim 9 to the action of a fungicidal solution and/or a release or adhesive preparation.

11. (Twice Amended) The tubular shaped article as claimed in claim 9, which is reinforced with a fiber nonwoven [, preferably of hemp fibers].

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